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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,123	01/28/2004	Leen Holleman	11953-1960	2104
24504	7590	06/02/2005	EXAMINER	
THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP 100 GALLERIA PARKWAY, NW STE 1750 ATLANTA, GA 30339-5948			PARSLEY, DAVID J	
		ART UNIT		PAPER NUMBER
				3643

DATE MAILED: 06/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/766,123	HOLLEMAN, LEEN	
	Examiner David J Parsley	Art Unit 3643	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 17 March 2005.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 13 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-12 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 20 April 2005 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4-5-04</u> | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

Detailed Action

Election/Restrictions

1. Applicant's election of Group I (claims 1-12) in the reply filed on 3-17-05 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Claim 13 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 3-17-05.

Claim Objections

2. Claim 7 is objected to because of the following informalities: in line 4 "advances" should be - -advanced- -. Appropriate correction is required.

Claim 8 is objected to because of the following informalities: in line 3 "the" should be - - then- -. Appropriate correction is required.

Claim 9 is objected to because of the following informalities: this claim appears to contain two periods at the ends of lines 7 and 8. Appropriate correction is required.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 10 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claim 10 is directed to a wing or portion of a wing of a chicken, which constitutes a natural occurring phenomena and is therefore not statutory subject matter.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 12 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12 recites the limitation "the right wings" and "the left wings" in line 8. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 102

Art Unit: 3643

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim 10 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No.

3,412,425 to Sturm, U.S. Patent No. 5,368,519 to Curtis et al. or U.S. Patent No. 5,494,479 to Lindert et al. Sturm, Curtis et al. and Lindert et al. all disclose a chicken wing as claimed in claim 1 – see for example figures 1-6 of Sturm, figures 1-4 of Curtis et al. and figures 1-5 of Lindert et al.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-9 and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,494,479 to Lindert et al. in view of U.S. Patent No. 5,976,004 to Hazenbroek.

Referring to claims 1 and 12, Lindert et al. discloses a method of deboning a poultry wing having a primary segment – at 10, with a bone – at 12, extending therethrough that was separated from a poultry carcass, a mid-wing segment – at 11, having a pair of bones – at 13a,13b, extending longitudinally therethrough that is joined at an elbow joint to the bone of the primary

Art Unit: 3643

segment – see for example figure 2, and a tip segment – proximate 41, joined at a tip joint to the bones of the mid-wing segment – see for example figure 2, comprising, partially suspending the poultry wing from its tip segment – see for example proximate 56 in figure 7a, advancing the suspended wing segment along a processing path with the outside of the right poultry wings facing one side of the processing path and the outside of the left poultry wings facing the same side of the processing path – see for example figures 1-7, bending the primary segment of the wing at the elbow joint laterally about an elbow guide – at 15,16,18,19, positioned on the outside of the poultry wing until the elbow joint is opened – see for example figures 1-7, as the elbow joint is opened, stretching the tissue extending between the primary segment and the mid-wing segment about the elbow joint – see for example figures 1-4, separating the stretched tissue extending between the primary segment and the mid-wing segment at the elbow joint at a position that exposes the end of the bone of the primary segment and separates the primary segment from the mid-wing segment – see for example figures 3-5, such that the tissue about the bone end of the primary segment tends to retract from about the bone end and leave the bone end exposed – see for example figures 3-5. Lindert et al. does not disclose suspending the poultry wing from the wing tip segment. Hazenbroek does disclose suspending poultry wings from a tip portion – see for example at item – 100 in figure 13 and column 1 lines 15-22. Therefore it would have been obvious to one of ordinary skill in the art to take the device of Lindert et al. and add the suspending of the poultry by its tip segment of Hazenbroek, so as to allow for pieces of the carcass to be removed and simultaneously moved from the conveying/advancing means.

Referring to claim 2, Lindert et al. as modified by Hazenbroek further discloses advancing the wing with the elbow joint extending forwardly in the processing path – see for example figures 1-7 of Lindert et al.

Referring to claim 3, Lindert et al. as modified by Hazenbroek further discloses advancing the wing with the elbow joint extending rearwardly in the processing path – see for example figures 1-7 of Lindert et al.

Referring to claim 4, Lindert et al. as modified by Hazenbroek further discloses the step of suspending the poultry wing from its tip comprises wedging the tip segment into a slot of the shackle – see at item 100 in figure 13 of Hazenbroek.

Referring to claim 5, Lindert et al. as modified by Hazenbroek further discloses the step of advancing the suspended wing along a processing path comprises, advancing the wing along a substantially rectilinear path – via item 75 of Hazenbroek, toward a rotary guide – at 70, placing the mid-wing segment of the wing in contact with the rotary guide – see for example figure 13 of Hazenbroek, advancing the wing in unison with and about the rotary guide – see for example figure 13 of Hazenbroek, performing the steps of bending, stretching and separating the wing as the wing advances with the rotary guide – see for example figure 13 of Hazenbroek.

Referring to claim 6, Lindert et al. as modified by Hazenbroek further discloses the step of advancing the wing in unison with the rotary guide comprises, moving a positioning block – at 79,80, in unison with the rotary guide and engaging the wing with the positioning block – see for example figure 13 of Hazenbroek.

Referring to claim 7, Lindert et al. as modified by Hazenbroek further discloses the step of advancing the wing in unison with the rotary guide comprises, advancing the wing along an

Art Unit: 3643

arcuate path of approximately 180 degrees about an axis of rotation of the rotary guide at a speed greater than the speed at which the wing is advanced along the substantially rectilinear path – see for example figure 13 of Hazenbroek and U.S. Patent No. 5,067,927 to Hazenbroek et al. which shows the operation of the device of figure 13 of Hazenbroek ‘004.

Referring to claim 8, Lindert et al. as modified by Hazenbroek further discloses maintaining the mid-wing segment in contact with the guide – at 18,19, as the primary segment is bent about the elbow guide – at 15,16, until the elbow joint is opened and then separated – see for example figures 1-7 of Lindert et al.

Referring to claim 9, Lindert et al. as modified by Hazenbroek further discloses after the primary wing segment has been separated from the mid-wing segment, advancing the mid-wing segment and the tip segment along a second processing path – see for example figure 7a of Lindert et al., as the mid-wing segment and tip segment are advanced along the second processing path; compressing the wing tip segment – at 56 in figure 7a, forcing the mid-wing segment laterally with respect to the tip segment – see at 42-56 in figure 7a, and popping the bones of the mid-wing segment laterally from the tip segment, such that the end of the bones of the mid-wing are exposed – see for example figures 7a and 8a of Lindert et al.

Referring to claim 11, Lindert et al. as modified by Hazenbroek further discloses cooking the primary segment and the mid-wing segment after they have been separated from each other, such that the ends of the bones of the segments protrude from the tissue remaining on the bones and are available to be grasped by the human hand without touching the tissue remaining on the bones – see for example figure 6, column 1 lines 15-22 and column 4 lines 61-67 of Lindert et al.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following patents are cited to further show the state of the art with respect to wing/leg processing of carcasses in general:

U.S. Pat. No. 3,412,425 to Sturm – shows wing deboning method

U.S. Pat. No. 3,470,581 to Hopkins – shows wing deboning device

U.S. Pat. No. 4,213,229 to Helmer et al. – shows chicken deboning device

U.S. Pat. No. 5,232,397 to Gagliardi – shows wing processing device

U.S. Pat. No. 5,267,891 to Cresson et al. – shows wing deboning device

U.S. Pat. No. 5,368,519 to Curtis et al. – shows wing deboning method

U.S. Pat. No. 5,490,812 to Schaarschmidt – shows wing deboning device

JP Pat. No. 60-118140 – shows chicken deboning device

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J Parsley whose telephone number is (571) 272-6890. The examiner can normally be reached on 9hr compressed.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on (571) 272-6891. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

DP
David Parsley
Patent Examiner
Art Unit 3643


PETER M. POON
SUPERVISORY PATENT EXAMINER

5/31/05